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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/630,109	08/01/2000	Aaron K. Alexander	31042-13	6028

7590

01/31/2002

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EXAMINER

COPIER, FLORIS C

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 01/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/630,109

Applicant(s)

ALEXANDER ET AL.

Examiner

Chad Copier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

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pmP

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-8, drawn to a three-chamber paint ball gun, classified in class 124, subclass 70+.
- II. Claims 9-11, drawn to pressure regulation in a paintball gun, classified in class 124, subclass 71.
- III. Claims 12-14, drawn to a release mechanism for a pneumatic assembly of a paintball gun, classified in class 124, subclass 16+.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because pressure regulation is done in all paintball guns, not just those having three bores. The subcombination has separate utility such as pressure regulation in a pneumatic spear gun or any number of different pneumatic paint-ball gun designs.

Inventions I and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §

806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the device to release the pneumatic assembly of a paintball gun can be done in several different ways. The subcombination has separate utility such as releasing the bolt of a firearm or releasing a tube engaged in a larger tube.

Inventions II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention III has separate utility such as releasing the bolt of a firearm or releasing a tube engaged in a larger tube. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with Troy Cole on January 15, 2002, a provisional election was made without traverse to prosecute the invention of group I, claims 1-8. Affirmation of this election must be made by applicant in replying to this Office action. Claims 9-14 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –



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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(a) as being anticipated by Gardner, Jr. (US 5967133).

As to claims 1 and 2, Gardner discloses a pneumatic paintball gun, comprising: a gun body (40) having first (3), second (2) and third (4) bores formed at least partially therethrough (Fig 2); wherein the first, second and third bores have respective first, second and third longitudinal axes (Fig 3); wherein the first, second and third longitudinal axes are parallel to one another (Fig 3); and wherein lines drawn connecting the first, second and third axes in a plane perpendicularly intersecting the first, second and third axes form an equilateral triangle (Fig 2).

As to claim 3, the first bore (3) expels the paintball and is above the other two bores (Fig 2).

As to claim 4, Gardner discloses a pneumatic gun for shooting a paintball with the features comprising: a gun body having first (3), second (1) and third (2) bores, said first, second and third bores having respective first, second and third longitudinal axes, the first, second and third longitudinal axes being parallel to one another and spaced apart from one another (Fig 2), said first bore having a chamber (Fig 1A); a hammer (6A) for releasing compressed air into the chamber, the hammer (21) being slidable within the second bore; a bolt (26); and a rod (5) for actuating the bolt, the rod being slidable within the third bore.

As to claim 5, Gardner discloses a pneumatic paintball gun, comprising: a source of compressed air (inherent); a gun body having a bore (2) with an external opening; a

pneumatic assembly (elements in bore 2) in fluid communication with the source, the pneumatic assembly having a first member (16) slidably coupled to a second member (13), the pneumatic assembly being located within the bore; and a third member (Screw) at the end of the bore near (16) coupled to the bore and covering the opening, the third member being externally accessible and repeatedly removable; wherein removal of the third member permits the pneumatic assembly to be removed from the bore, and the first member is retained by the second member after removal from the bore (Fig 3).

As to claim 6, the assembly is a regulator (col 5 lines 45-65).

As to claim 7, the third member has a screw end and is threaded to couple the portions to the bore (Fig 3).

As to claim 8, the pneumatic assembly is a cartridge valve because it is encased (Fig 3).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Williams (US 5572982), Scott (US 5494024), Cagnoni (GB 2056635 A), and D'Andrade (US 5373833) disclose similar devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Copier whose telephone number is 703-306-0939. The examiner can normally be reached on M-F 8:30 - 5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703-308-2574. The fax phone numbers for

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the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-306-4195 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

fcc
January 23, 2002


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1/25/02